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February 26, 1997

William F. Caton, Acting Secretary
Federal Communications Commission
Washington, D.C. 20554

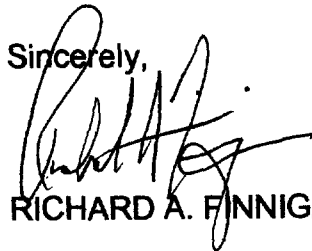
VIA AIRBORNE EXPRESS

Re: Response to Motion for Stay Pending Judicial Review
Filed on Behalf of 3 Rivers PCS, Inc.
WT Docket No. 96-148
GN Docket No. 96-113

Dear Mr. Caton:

Enclosed for filing are the original and four copies of the Response to Motion for Stay Pending Judicial Review filed on behalf of 3 Rivers PCS, Inc. in the above-entitled dockets.

Sincerely,



RICHARD A. FINNIGAN

RAF/aw
Enclosures as noted

cc: Art Isley
Kathy Holden
International Transcription Service
Caressa D. Bennet
William E. Kennard

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)

Geographic Partitioning and Spectrum)
Disaggregation by Commercial Mobile)
Radio Service Licensees)

WT Docket No. 96-148

Implementation of Section 257 of the)
Communications Act —)
Elimination of Market Entry Barriers)

GN Docket No. 96-113

To: The Commission

**RESPONSE TO MOTION FOR STAY
PENDING JUDICIAL REVIEW**

3 RIVERS PCS, INC.

Richard A. Finnigan
2405 Evergreen Park Drive SW
Suite B-1
Olympia, WA 98502
(360) 956-7001

Its Attorney

Dated: February 26, 1997

SUMMARY

3 Rivers PCS, Inc. ("3 Rivers") is responding to a Motion for Stay Pending Judicial Review filed by the Rural Telecommunications Group ("RTG") on February 20, 1997. That Motion asks for a stay of the entire Report and Order and Further Notice of Proposed Rulemaking released December 20, 1996 which modified the Personal Communications Services partitioning rules. 3 Rivers requests that if the Commission is inclined to grant a stay, it not stay any portion of the Report and Order that deals with the geographic scope of partitioning. This does not appear to be the issue that the RTG is addressing and should not be swept up in a broad stay.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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)	
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)	
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Elimination of Market Entry Barriers)	

To: The Commission

**RESPONSE TO MOTION FOR STAY
PENDING JUDICIAL REVIEW**

On February 20, 1997, the Rural Telecommunications Group ("RTG") filed a motion requesting a stay pending judicial review of Federal Communications Commission Report and Order and Further Notice of Proposed Rulemaking ("Report and Order") released December 20, 1996 in this docket. The primary issue addressed by the RTG in its Motion for Stay is the Commission's action eliminating rural telephone companies' exclusive right to partition a license to construct and operate a personal communications services (PCS) system.

3 Rivers is a wholly owned affiliate of 3 Rivers Telephone Cooperative, Inc., a rural telephone company under the definition of the term "rural telephone company" set forth in Section 24.720 of the Federal Communication Commission's rules. 3 Rivers' parent

company provides local exchange telecommunications service in the rural areas around Great Falls, Montana and other portions of rural Montana.

3 Rivers has an application pending before the Commission seeking to partition a portion of the broad band Personal Communications Service Station License KNLF283 from GTE Macro Communications Corporation. See File No. 50002-CW-AL-96. The application addresses partitioning the Great Falls, Billings, Bozeman, Helena, and Butte (except for Powell County) BTAs. A petition to deny the application was filed by Mid-Rivers Telephone Cooperative, Inc., and the matter is pending before the Commission. The primary issue raised by Mid-Rivers Telephone Cooperative, Inc. is the geographic scope of the area sought to be partitioned and its relationship to the telephone service area of 3 Rivers' parent company.

As a rural telephone company, 3 Rivers has some sympathy for the issues raised by the RTG. However, 3 Rivers' application to partition has been pending for several months. 3 Rivers would very much like to be able to bring the advantages of PCS service to rural areas of Montana in an expeditious fashion.

As 3 Rivers reads the motion filed by RTG, the motion is directed primarily to the portions of the Report and Order that allowed entities other than rural telephone companies to partition. 3 Rivers agrees with the comments at page 5 of the Motion for Stay that under the Telecommunications Act of 1996, Congress recognized that rural telephone companies have historically provided telecommunications service to rural areas that other entities, large or small, were unwilling or incapable of providing. As stated in the Motion:

Many rural telephone companies are rural cooperatives, owned entirely by rural Americans who subscribe to the telephone service. These cooperatives were formed because no other entity was willing to provide telephone service to isolated geographic areas with low population density. These cooperatives have a vested interest in bringing all forms of telecommunications services to their rural subscribers and, but for the initiative they have shown in continuing to advance telecommunications services in these areas, the rural communities would wither and die.

3 Rivers is exactly that type of entity. Its parent is a rural cooperative. It serves very rural areas. 3 Rivers is concerned that a stay not slow Commission consideration of the 3 Rivers partitioning application.

In its Report and Order, the Commission liberalized the geographic scope of partitioning. See Paragraphs 23-24 and 42. That was an appropriate step to take. In some sparsely populated rural BTAs, the pure economics of PCS technology may mean that service to a single BTA does not make sense. However, service to two or more rural BTAs may make economic sense by spreading operating costs over a larger customer base. Deployment of PCS service to rural areas can be expedited by recognition of these economies and the joint communities of interest that service to multiple BTAs can fulfill.

Conclusion

There does not appear to be a major objection by the RTG to liberalizing the geographic scope of partitioning. 3 Rivers is ready, willing and able to provide PCS service to the BTAs it is seeking to serve in its application for partitioning from GTE Macro

Communications. RTG's stay, if granted, should not be granted in such a sweeping manner as to inhibit action on 3 Rivers' application.

Respectfully submitted,

3 RIVERS PCS, INC.

By: 

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Olympia, WA 98502
(360) 956-7001

Its Attorney

Dated: February 26, 1997

CERTIFICATE OF SERVICE

I, Candiss A. Watson, hereby certify that on this 26th day of February, 1997, a copy of the foregoing Response to Motion for Stay Pending Judicial Review was mailed, postage prepaid, to the following:

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CANDISS A. WATSON